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## Interactions with Futurewei and Huawei

1 message

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To: huawei-research@lists.berkeley.edu

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Dear Colleagues:

As you are no doubt aware, in response to a Presidential Executive Order (<https://www.whitehouse.gov/presidential-actions/executive-order-securing-information-communications-technology-services-supply-chain/>), the U.S. Department of Commerce placed Huawei and sixty eight of its non-U.S. subsidiaries on the Entity list on May 15 (<https://www.federalregister.gov/documents/2019/05/21/2019-10616/addition-of-entities-to-the-entity-list>). The U.S. government finds these corporate entities to represent a threat to national security, with serious legal consequences for U.S. persons and entities interacting with them without an approved export license. While the Department of Commerce granted a limited 90 day extension to allow existing supply contracts to continue, many corporations have announced that they no longer intend to share technology with or supply technology to Huawei and its listed subsidiaries. Our institutional response has been to place a moratorium on further technical exchanges with Huawei and its listed non-U.S. subsidiaries. In addition, we have extended our embargo on entering into new agreements with Huawei from January 2019 to include a moratorium on accepting incremental funding for existing relationships and alliance agreements. Currently, checks from Huawei for research alliances or gift funding are being intercepted and returned to the originating unit on campus.

We are aware that in addition to Huawei, many campus entities receive support and engage in research and other collaborations with Futurewei, a U.S.-subsidiary of Huawei, based in Santa Clara, CA. Through consultation with officials within the Department of Commerce's Bureau of Industry and Security, we have determined that Futurewei is not covered by the action that recently placed Huawei and its non-U.S. subsidiaries on the Entity list. Nevertheless, the U.S. government may take other actions against Futurewei. We are actively monitoring the U.S. government actions, and will communicate our response as quickly as possible.

With respect to Futurewei, two issues remain: managing technical exchanges to avoid triggering export control issues and incremental research funding for existing agreements and relationships.

**Managing technical exchanges:** Through consultation with Futurewei, we have developed a guidance on how to allow continued participation by Futurewei personal. This must be limited to U.S. persons (that is, citizens and permanent residents of the United States) employed by Futurewei and working in the United States. While published information and fundamental research are excluded under export control restrictions, U.C. is concerned that in person meetings could result in exchanges of technical information that did not arise during or result from fundamental research. Out of an abundance of caution, if U.S. persons in the employ of Futurewei in the United States participate in such research reviews, Futurewei must commit in writing, in advance of said review, to assure that only technical information covered by the regulatory safe harbor for fundamental research will be shared with non-U.S. persons, or with Huawei or its listed subsidiaries. Please contact Michael Aday at Futurewei to receive these written assurances ([maday@futurewei.com](mailto:maday@futurewei.com)) in advance of your review, and share them with the Vice Chancellor for Research Office ([vcr@berkeley.edu](mailto:vcr@berkeley.edu)).

**Incremental research funding:** While U.C. determines a system-wide policy, we will continue the moratorium on incremental gift and alliance funding from Futurewei for existing relationships and agreements.

We are well aware that these actions create uncertainties with respect to continuing collaborations with Futurewei, which has proven to be a trusted research partner for Berkeley. This is unfortunate. Principal Investigators should plan to be able to respond to these uncertainties.

We hope to be able to share with you a new comprehensive policy in the near future.

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